

MINUTES

MONTANA SENATE 58th LEGISLATURE - REGULAR SESSION

COMMITTEE ON LOCAL GOVERNMENT

Call to Order: By **CHAIRMAN JOHN C. BOHLINGER**, on January 16, 2003 at 3:00 P.M., in Room 335 Capitol.

ROLL CALL

Members Present:

Sen. John C. Bohlinger, Chairman (R)
Sen. John Esp, Vice Chairman (R)
Sen. Jerry W. Black (R)
Sen. Brent R. Cromley (D)
Sen. Jim Elliott (D)
Sen. Kelly Gebhardt (R)
Sen. Bill Glaser (R)
Sen. Rick Laible (R)
Sen. Jeff Mangan (D)
Sen. Carolyn Squires (D)
Sen. Mike Wheat (D)

Members Excused: None.

Members Absent: None.

Staff Present: Leanne Kurtz, Legislative Branch
Phoebe Olson, Committee Secretary

Please Note. These are summary minutes. Testimony and discussion are paraphrased and condensed.

Committee Business Summary:

Hearing & Date Posted: SB 112, 1/7/2003; SB 114, 1/7/2003;
SB 150, 1/7/2003
Executive Action: SB 24, SB 60, SB 98, SB 45, SB 114,
SB 150

HEARING ON SB 112

Sponsor: SENATOR BEA MCCARTHY SD 29, Anaconda

Proponents:

Tom Blaz, Anaconda Search and Rescue
Brad Belke, 15-90 Search and Rescue
Ot Lemm, Anaconda Search and Rescue
Jim Greene MT Department of Emergency Services
Ralph DeCunzo, Lewis and Clark Search and Rescue
Scott Howard, Powell County Sheriff
Jim Smith, Sheriffs and Peace Officers
Representative Jesse Laslovich, Anaconda
Gordon Morris, MT Association of Counties
Ken Hoovestall, MT Snowmobile Association

Opponents:

Jennifer Smith-Mitchell, Gallatin County

Informational Testimony:

Bob Lane, Department of Fish Wildlife and Parks
Doug Chabot, Gallatin County

Opening Statement by Sponsor:

SENATOR BEA MCCARTHY, SD 29, Anaconda said she was approached about a year ago by her local search and rescue, to see if she would present a bill that would help them get funding for their operation. She said her county search and rescue was a volunteer group that did not receive any county funds. She maintained they did fund raising to get money. She said the purpose and intent of the bill was to help other search and rescues that are in the same group. She said she had received quite an education in the nine months she had worked on the bill and that most of the information they were looking at came from the State of Colorado. She maintained their program was very successful. She said there were amendments to go with the bill from the revenue department that moved money to the right department. She maintained they did not change the bill. She reserved the right to close.

Proponents' Testimony:

Tom Blaz, Chief Law Enforcement, Anaconda/Deer Lodge County, said he was involved because search and rescue missions fall under the sheriff's jurisdiction. He said he was first involved with search

and rescue operations after he took office. After reviewing the information concerning budgets for those agencies, he had talked to some other sheriffs around the state. He said the only funding available in his budget was \$5,000.00 to replace gas. He said the rescuers donated the rest, time, equipment and so on. He said he talked with some sheriffs that would like to see amendments put on. He said the bill needed more clear lines of responsibility and direction. He said the spirit of the bill was to have a pool of money available to reimburse counties within the state for searches, training and equipment. He reiterated that these were all volunteers. He said these services needed to be provided to people that came to our state to visit. He thanked the committee.

Brad Belke, 15-90 Search and Rescue said he had served with the Butte Search and Rescue Team for almost twenty years and they were the finest members of the community. He said that in the year 2000 the Butte Sheriff department calculated that if they would have had to perform the searches they would have spent over \$100,000 dollars just in wages. He said Idaho, Washington and Oregon all had similar models. He said this put the burden of paying for search and rescues on the people who most use the service. He said the spirit of the bill was to be able to provide these services and take some of the burden off the volunteers.

Ot Lemm, Anaconda Search and Rescue said he and numerous others proposed this idea. He said **Brad Belke** had made his points pretty well. He did reiterate that all the equipment was provided by the volunteers, and they did not receive any compensation. He explained they go out at all hours of the day and night and in any kind of weather. He said the people were trained in all fields of rescue, and certified in CPR and first aid, and many were moving up to EMT and above. He said they were a big help to law enforcement, and he maintained they also worked with DES and the forest service. He reiterated that they were looking at funding for this from the people who use the services the most, hunters, snowmobilers, hunters, backpackers etc. He hoped this could help them move into the 20th century. They needed updated equipment. He said everyone would still be volunteers and not expect to be paid for their services. He hoped they committee would give the bill careful consideration and he said they would answer any questions.

Jim Greene MT Department of Emergency Services submitted his written testimony. **EXHIBIT (los09a01)**

Ralph DeCunzo, Lewis and Clark Search and Rescue said he had been involved in search and rescue for over 26 years. He explained the amendments that he had discussed with other proponents and opponents. He thought if they had some time they could come up

with some amendments that would be agreeable with both sides. He said he would be happy to work on any amendments that were necessary and thanked the committee for the time.

Scott Howard, Powell County Sheriff said it was the elected sheriffs responsibility to conduct searches. He said these people were volunteers but they were very professional and very organized. He thought they did this a lot on their own with some help from the sheriffs department. He thought this bill would give a good opportunity to thank these people for the efforts. he hoped the could support the bill.

Jim Smith, Sheriffs and Peace Officers said they supported the bill. He said the concept to find funding for these search and rescue units had been floating around for quite along time. He said this was attractive because it cast a wide net. He said any type of recreational activity that may require search and rescue services was included in this. He said there might be some administrative issues, but he thought with a little time they could work out those issues and bring back a good set of amendments. He reiterated that these search and rescues were organized under the sheriffs office. He thought there were good check and balances in place. He hoped they would be back for executive session with something that would be well accepted.

Representative Jesse Laslovich, Anaconda said he would be brief. He said the bill was simple, they were helping people whose goal was to help people. He said they were asking those people who needed the services to pitch in for the cost. He hoped the committee could pass the bill.

Gordon Morris, MT Association of Counties said they wanted to support the concept but had two questions. First the exemption on page 1. And second why there was a January 1, 2004 effective date.

Ken Hoovestall, MT Snowmobile Association said they agreed with the concept of the bill. He thought it should be reimbursable to all counties. He submitted a suggested amendment.**EXHIBIT(1os09a02)**

{Tape: 1; Side: B}

Opponents' Testimony:

Jennifer Smith-Mitchell, Gallatin County said there county did give their search and rescue a half mill, which amounts to \$75,146.00. She said there search and rescue was all volunteer and that money went to pay for equipment, storage, and etc. She

maintained they had a lot of rescues in Gallatin County. She said she was opposed to the bill in it's original form, she had not seen the amendments. She maintained she was concerned about fairness, and that all counties should share in this. She was concerned about the \$3,000 limit. She asked who would pay the difference when the costs were over \$3,000. She did not think centralization of tax dollars was a good idea. She maintained she still had a lot of questions. She said she had more concerns than actually being totally opposed to the bill.

Informational Testimony:

Bob Lane, Department of Fish Wildlife and Parks submitted written testimony. **EXHIBIT (los09a03)**

Doug Chabot, Gallatin National Forest Avalanche Center said there were three avalanche centers in Montana that provided education and information so riders can make informed decisions. He maintained they put out 135 daily advisories per winter. He maintained education was extremely important. He said Montana led the nation in avalanche fatalities the past two years. He maintained they were trying to stop that trend. He said education worked and did save lives. He said the proof of that was the live recoveries they were seeing this winter alone. He said the avalanche centers did rely on grants for 40% of their total budget, so if this bill passed it would be used to continue education efforts to prevent the need for search and rescue. He thanked them for their time.

Questions from Committee Members and Responses:

SENATOR JEFF MANGAN said he was concerned about page 1 line 27 through line 9 on page 2. He wondered if there was a reason to have all the amounts in statute.

SENATOR MCCARTHY replied that they were trying to make it as much like the Colorado law as they could, because they knew it had been working so well. She said she saw his concerns there and would agree to an amendment.

SENATOR MANGAN said he thought they should look at a much larger amount or make it more discretionary for the department of the counties. He wondered if the sponsor was ok with that.

SENATOR MCCARTHY said what the committee chose to do with the bill she would accept.

SENATOR MANGAN said to Jim Green, the bill would give 5% of the money for administration costs. He said the fiscal note said they

expected to raise 10,000 but that would be reimbursed. He wondered if he had told them they would give that money back for direct services or do you have costs.

Jim Green replied that Fish Wildlife and Parks said they would raise about 200,000 dollars annually. So five percent is 10,000 dollars. He said they figured within that amount they could administer it.

SENATOR GLASER said there was another bill that made all these things one time fees. He said if both bills passed there would not be a whole lot of money raised from this bill.

SENATOR MCCARTHY said that she would like to go forward with this bill, and if the other bill passes, she thought they could have a conference committee to work out the issues.

SENATOR GLASER said he just wanted everyone to know there was another bill. He thought they could work on some contingency language to make the bill work if the other bill passed.

SENATOR ELLIOT asked **Doug Chabot** what he felt about the idea of a users fee.

Doug Chabot said most accidents, more than 50% are uneducated people who did not realize that they were in avalanche terrain. He said 25% are people who know they are taking a risk. He said there goal was to get people who could make an educated decision.

SENATOR ELLIOT said the bill stipulates that if you have a mill levy going to search and rescue you would not receive any money from this account. He wondered if that was correct.

SENATOR MCCARTHY replied that was correct. She said they had agreed on an amendment that would reimburse the counties that do have mill levies.

SENATOR ELLIOT said he was concerned about the federal government reward entities for taxing efforts. He said in the counties that have gone out of their way to have that levy for search and rescues, in his opinion should be rewarded more than those counties who don't.

Brad Belke replied that out of 56 counties it was his understanding that less than 6 counties receive mill levy support. He thought it was fair to not punish those counties for the work they had done and he thought they could reach a consensus on that issue.

Ralph Decunzo said he believed there were 10 or 12 counties.

SENATOR LAIBLE said he was concerned that the money would be administered by the Department of Military Affairs. He said it looked like money would come from all over the state, and of course more money would come from the populated areas. He wondered how the reimbursement would be handled.

SENATOR MCCARTHY said it was her understanding that the county who had the rescue would submit the bill to the department for reimbursement and they would be handled in that manner. She said they were trying to make it as clean and simple as they could.

{Tape: 2; Side: A}

SENATOR GEBHARDT said if you had the 3,000 dollar limit on the reimbursement if you don't use the full amount of money does that money go back to the general fund or is it kept for this.

SENATOR MCCARTHY said it was her understanding it would be kept in an account to earn interest and be available for the following year.

SENATOR GEBHARDT said there were times that counties go for ten years without a search and rescue operation and then they will have an operation that costs more than 3,000 dollars. Would they accumulate a credit of the 3,000 dollars a year. He said he did not think 3,000 dollars was an appropriate figure.

SENATOR MCCARTHY said that amount was somewhere to begin when right now the bottom line was zero. The people that want the bill were please to start anywhere.

SENATOR GEBHARDT said the fiscal note said there would be a lot of money raised, which would constitute a lot of operations, he wondered if there were that many operation that needed funding in a year.

SENATOR MCCARTHY said Ot Lemm could provide that information.

Ot Lemm, provided that information for five counties for the past five years. **EXHIBIT(1os09a04)**

Closing by Sponsor:

SENATOR MCCARTHY thanked the committee for an excellent hearing, she said there was a fiscal note attached. She also thanked the people that helped with the bill over the past nine months. She said she did not disagree with the one time funding source that

Senator Glaser had mentioned, and that should be talked about. She maintained that funding one rescue and saving one life was a good place to start. She asked **Leanne** to check on the delayed effective date. She hoped they could get a good bill out of the session. She thanked the committee again.

HEARING ON SB 114

Sponsor: SENATOR ROYAL JOHNSON, SD 5, Billings

Proponents:

Alec Hansen, League of Cities and Towns
Gordon Morris, MT Association of Counties
Jani McCall, City of Billings

Opponents:

None

Opening Statement by Sponsor:

SENATOR ROYAL JOHNSON, SD 5, Billings said this bill was here to straighten out a problem, with HB 124. He said if you looked on page 3, line 7, the last number is 2004, and the first number on line 8 is 2002. He said what happened was they had to do a series of figures to make HB 124 work out. He said without changing the number they could not calculate the numbers for 2004 and 2005. He said this would help a lot.

Proponents' Testimony:

Alec Hansen, League of Cities and Towns said they had spent a lot of time in the last session working on HB 124. If he remembered correctly, it was 288 pages long. He said since the bill was passed they had found several minor errors in drafting and this would fix the problem so they could calculate the growth rate. He said they supported the correction so the bill would work.

Gordon Morris, MT Association of Counties said he agreed this was an error, and he concurred in the effort to correct it. He thanked them for their consideration.

Jani McCall, City of Billings said they were also in support of the bill.

Opponents' Testimony:

None

Questions from Committee Members and Responses:

SENATOR RICK LAIBLE asked **Gordon Morris** if he was saying when this was drafted it should have said 2002 when it was drafted, or was it a correction reflecting back on the bill.

Gordon Morris said it was his opinion it was a simple error or oversight.

Closing by Sponsor:

SENATOR JOHNSON state he had closed.

HEARING ON SB 150

Sponsor: **SENATOR ROYAL JOHNSON, SD 5, Billings**

Proponents:

Anna Miller, Department of Natural Resource and Conservation
Dan Semmens, Department of Natural Resource and Conservation
Alec Hansen, League of Cities and Towns

Opponents:

None

Opening Statement by Sponsor:

SENATOR ROYAL JOHNSON, SD 5, Billings submitted his opening statement. **EXHIBIT(1os09a05)**

Proponents' Testimony:

Anna Miller, Department of Natural Resource and Conservation said the Department of Natural Resources executes a revolving fund loan program to communities in Montana for water and sewer facilities. She gave the committee two handouts to show examples of these loans. **EXHIBIT(1os09a06)** and **EXHIBIT(1os09a07)**. She explained the program and how these laws would clarify how they use these lending programs. She also explained how the *RSID program was working. She said condominiums were also becoming a larger share of the housing market in Montana and they needed a way for them to be a part of the RSID process.

Dan Semmens, Department of Natural Resource and Conservation ran through the technical reasons for the changes. He turned in a written copy. **EXHIBIT(1os09a08)** He also turned in a summary of the amendments. **EXHIBIT(1os09a09)**.

{Tape: 2; Side: B}

Alec Hansen, League of Cities and Towns said they thought the clarification was important and they were in support of the bill.

Mike Green, DA Davidson said they wanted to be on record in support of the bill and the thought the clarifications were important as well.

Opponents' Testimony:

None

Questions from Committee Members and Responses:

SENATOR GEBHARDT asked if the bonds were guaranteed.

Dan Semmens said these changes are not within a particular program like a general obligation bond program or the revenue bond program. He said these cut across a gamut of issues. He said they may be supported by the full faith and credit of the issuer, or they may be supported by water and sewer rates, it depended on the context.

SENATOR WHEAT asked if these changes were designed to make it easier for RSID to raise money for the projects they were using them for.

Dan Semmens said that was a difficult question to answer. He said it made it easier to address particular circumstances in the formation of a RSID or how you attribute assessments. He said the same general requirements stayed in place.

Closing by Sponsor:

SENATOR JOHNSON thanked the committee for the hearing. He thought it was a bill that would truly help the bond situation in the state of Montana.

EXECUTIVE ACTION ON SB 24

Motion: SEN. MANGAN moved that SB 24 DO PASS.

Motion: SEN. MANGAN moved AMENDMENT SB2401.ALK .

Discussion:

Leanne Kurtz explained the amendment. **EXHIBIT(los09a10)**

SENATOR WHEAT asked if the amendment made a consistent fee at both levels of local government.

Leanne Kurtz explained it offered the cities the same opportunities as the counties.

Vote: Motion carried unanimously.

Motion: SEN. SQUIRES moved that SB 24 DO PASS AS AMENDED.

Discussion:

SENATOR ELLIOT asked if these fees would be commensurate with the fees that were currently being charged if you went to the court house.

SENATOR MANGAN replied it was his understanding that it was at the discretion of the local entity. He said if the fees were charged they would be commensurate with the fees that you would get if you went to the court house.

SENATOR LAIBLE said the amendment they just passed said "as used in this section convenience fee means a fee charged to recover the costs of providing electronic government services." So that could mean anything.

SENATOR CROMLEY said it seemed to be very broad. He maintained it was convenient to get information over the internet, but he did have some concerns about what they would be able to charge.

SENATOR MANGAN said he had heard the concerns of the committee in the hearing and had done some research on what the state was doing, because this particular bill was based on what the state did. He said this was a lot broader than just paying a fee for getting a document from the court house over the internet. He said many local government were already charging fees, they just did not have the legislative authority to do it. He said this reached a lot farther than just a fee for a document. It allowed cities and states to enter contracts and so on to provide services for citizens.

SENATOR LAIBLE said he would vote for the bill as amended. He guessed that because this gives the consumer the option to do it electronically or manually if the fees are unreasonable electronically people would go get the documents themselves and it could end up costing the government more money.

SENATOR SQUIRES said control needed to be at the local level. She said if the fees were too high, people would get new government representatives.

SENATOR ELLIOT said he thought in a sense this bill hinges on the passage of the bill that allows people to pay with a credit card, and he has problems with that bill. He said good arguments had been made so he would go along with it.

Vote: Motion carried unanimously.

EXECUTIVE ACTION ON SB 60

Motion: SEN. SQUIRES moved that SB 60 BE INDEFINITELY POSTPONED.

Discussion:

SENATOR LAIBLE said there were parts of the bill he liked. He said he had some heartburn because the don't go to the area and ask the citizens if they want to do it. It is the exact opposite. He said he would probably do what the committee wanted to do.

{Tape: 3; Side: A}

SENATOR WHEAT said they were experiencing a lot of growth in Gallatin county, and many people want to be annexed in so they can receive city services. He said he looked at in more of a sense that it is a good tool for growth planning. He did not like this bill. He thought elections could take care of the process.

SENATOR SQUIRES said she had lived with this for fourteen years. She said she could not support the bill.

Vote: Motion failed 7-3 with ELLIOTT, GEBHARDT, and LAIBLE voting aye.

EXECUTIVE ACTION ON SB 98

Motion: SEN. MANGAN moved that SB 98 DO PASS.

Motion: SEN. MANGAN moved that AMENDMENT SB009801.ALK DO PASS.

Discussion:

SENATOR MANGAN explained the amendment. **EXHIBIT**(los09a11)

SENATOR WHEAT said it was his understanding that a personal care facility, as they had discussed it in the bill, is a facility with eight residents or less.

SENATOR CROMLEY said that was correct.

SENATOR WHEAT asked if an assisted living facility was the same as personal care facility.

Leanne Kurtz said the key there was licensed under 55-227. He said the license requirement would have the 8 person limit.

SENATOR WHEAT said he just wanted to be clear that the new definition was the same.

SENATOR SQUIRES said assisted living was different than this particular kind of place and they were zoned differently.

Leanne Kurtz replied that the amendment won't change what the bill does at all.

Vote: Motion carried unanimously.

Motion/Vote: SEN. ELLIOTT moved that SB 98 DO PASS AS AMENDED.
Motion carried unanimously.

EXECUTIVE ACTION ON SB 45

Motion: SEN. GEBHARDT moved that SB 45 DO PASS.

Motion: SEN. GEBHARDT moved that AMENDMENT 004501.ACE DO PASS.

Discussion:

SENATOR GEBHARDT explained the amendment. **EXHIBIT**(los09a12)

SENATOR WHEAT asked if it changed the intent of the original bill.

SENATOR GEBHARDT replied it did not.

Vote: Motion carried unanimously.

Motion/Vote: SEN. GEBHARDT moved that SB 45 DO PASS AS AMENDED.
Motion carried unanimously.

EXECUTIVE ACTION ON SB 114

Motion/Vote: SEN. MANGAN moved that SB 114 DO PASS. Motion
carried unanimously.

EXECUTIVE ACTION ON SB 150

Motion/Vote: SEN. ELLIOTT moved that SB 150 DO PASS. Motion
carried unanimously.

ADJOURNMENT

Adjournment: 5:15 P.M.

SEN. JOHN C. BOHLINGER, Chairman

PHOEBE OLSON, Secretary

JB/PO

EXHIBIT (los09aad)